

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
JUL 13 2015
SPL
CLERK

COSETTE L. MILLER,

* CIV 14-4040

Plaintiff,

*

vs.

ORDER

CAROLYN W. COLVIN,

*

Defendant.

*

*

This Court referred the case to United States Magistrate for the purpose of issuing a Report and Recommendation. The Magistrate Judge has recommended that the Commissioner's denial of benefits be reversed and remanded for reconsideration pursuant to 42 U.S.C. § 405(g), sentence four.

A sentence four remand is proper when the district court makes a substantive ruling regarding the correctness of the Commissioner's decision and remands the case in accordance with such ruling. *Buckner v. Apfel*, 213 F.3d 1006, 1010 (8th Cir. 2000). Remand with instructions to award benefits is appropriate "only if the record overwhelmingly supports such a finding." *Buckner* at 1011.

Even though no objections have been filed, the Court has carefully conducted a *de novo* review of the Magistrate Judge's Report and Recommendation and the record of the administrative proceedings. After having reviewed the record, the Court agrees with the Magistrate Judge's Report and Recommendation. Accordingly,

IT IS ORDERED:

1. That the Magistrate Judge's Report and Recommendation, Doc. 17, is ADOPTED by the Court.
2. That Plaintiff's Motion to Reverse Decision of the Commissioner, Doc. 11, is GRANTED.

3. That the Commissioner's decision is REVERSED under sentence four of 42 U.S.C. § 405(g) and the case is REMANDED to the Commissioner for reconsideration pursuant to 42 U.S.C. § 405(g), sentence four.

Dated this 13¹ day of July, 2015.

BY THE COURT:



Lawrence L. Piersol
United District Court Judge

ATTEST:

JOSEPH HAAS, Clerk

By Deb Peter
Deputy